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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,681	10/12/2004	Hajime Kitano	259279US0PCT	3860

22850 7590 10/14/2005

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EXAMINER

MULLIS, JEFFREY C

ART UNIT	PAPER NUMBER
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1711

DATE MAILED: 10/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/509,681

Applicant(s)

KITANO ET AL.

Examiner

Jeffrey C. Mullis

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1711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10-12-04</u> . | 6) <input type="checkbox"/> Other: _____ |

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not clear if applicants claims require softener given that the softener is recited to be present at a level of less than 0.5 parts based on a, b, and c.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-10, 13-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kobayashi et al. (US 6,414,059).

Patentees disclose a composition containing up to 55% block copolymer, 0-40% softener and 5-80% acrylate rubber. Note the paragraph bridging columns 4 and 5. The aromatic block may be formed from alpha methylstyrene (AMS) at column 9, lines 40-45. Layers (i.e. laminates) or fibers may be formed from the composition in patent claim 11. With re to applicants limitations re continuous

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phase block copolymer, such would be the most likely morphology for embodiments of patentees having majority block copolymer as would be understood by those skilled in the art and conversely dispersed phases of acrylic would be the most likely for the minority component as may be the acrylic.

There are no examples in the patent of compositions having the specific combination of limitations of applicants although such falls within the broad ambit of the patent. Hence to choose applicants combination of materials from the patent would have been obvious to a practitioner having an ordinary skill in the art at the time of the invention in the expectation of adequate results, absent any showing of surprising or unexpected results.

Claims 1, 4-10 and 14-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tomoki (JP 11-246733).

Tomoki discloses a composition containing a thermoplastic and a block copolymer having an aromatic block which may include AMS. Note the abstract. The thermoplastics include acrylates at paragraph 17 and preferably the ratio of block copolymer to thermoplastic may be as high as 50:50 at paragraph 25, within the metes and bounds of the claims. Block copolymer molecular weights and aromatic monomer contents are disclosed at paragraphs 29 and 32 and are such as to meet the limitation of applicants' component "a". Plasticizers are disclosed in paragraph 50, although useful amounts are not. The compositions are useful in the automotive field at paragraph 54.

Applicants laminates are not disclosed but applicants discussion at the paragraph at the top of page 9 of their specification admits that it was known at

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the time of the invention to use laminates in automotive parts. Hence to produce laminates from the composition of the reference would have been obvious to a practitioner having an ordinary skill in the art at the time of the invention in order to achieve the goal of patentees to produce article useful in the auto field absent any showing of surprising or unexpected results. With re to the use of applicants amounts of plasticizer, it is not clear that applicants claims require plasticizer at all given that the plasticizer is recited to be present at a level of less than 0.5 parts based on a, b, and c. However to find the optimum or workable amount of plasticizer would have been obvious to a practitioner having an ordinary skill in the art at the time of the invention in that it requires only routine experimentation to fine the optimum or workable range of a result effective variable , absent any showing of surprising or unexpected results. There are no examples in the patent of compositions having the specific combination of limitations of applicants although such falls within the broad ambit of the patent. However, to choose applicants combination of materials from the patent would have been obvious to a practitioner having an ordinary skill in the art at the time of the invention in the expectation of adequate results, absent any showing of surprising or unexpected results.

Any inquiry concerning this communication should be directed to Jeffrey C. Mullis at telephone number 571 272 1075.

Jeffrey C. Mullis
J Mullis
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JCM

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9-23-05

Jeffrey Mullis
Primary Examiner
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A handwritten signature in black ink, appearing to be 'J. Mullis', written over the printed name and title.